

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LUCINDA ROSE MOSNA,
Plaintiff,
v.
KILOLO KIJAKAZI, et al.,
Defendants.

Case No. 23-cv-02647-LJC

**ORDER DISCHARGING ORDER TO
SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE**

Re: ECF No. 13

On November 8, 2023, the Court directed Plaintiff Lucinda Rose Mosna to show cause why the action should not be dismissed for failure to prosecute (Order to Show Cause), after Plaintiff did not file her Motion for Summary Judgment by the September 25, 2023 deadline. ECF No. 13. Although Plaintiff eventually filed her Motion for Summary Judgment (ECF No. 14), she did not address the Order to Show Cause or otherwise explain the almost two-month delay in bringing her motion. The Court thus directed her to specifically respond to the Order to Show Cause by December 14, 2023. ECF No. 16. Counsel for Plaintiff subsequently filed a statement, explaining to the Court that the failure to timely file Plaintiff's Motion for Summary Judgment or to seek an extension was because of his own "inadvertence and excusable neglect and not an intentional failure to prosecute." ECF No. 17 at 2. Defendant Kilolo Kijakazi was given an opportunity to file a response but did not do so.

As an initial matter, the Court notes that the factual contentions in Plaintiff's counsel's "statement" are not supported by a declaration as set forth in the Local Rules and the Federal Rules of Civil Procedure. See Civ. L.R. 6-3, 7-5(a); Fed. R. Civ. P. 56(c), (e); see also 28 U.S.C. § 1746 (requiring that an unsworn declaration, certificate, verification, or statement be "subscribed...as true under penalty of perjury.") Nor did Plaintiff bring a request or motion under

1 Local Rules 6-2 or 6-3—which must also be accompanied by a declaration—seeking an order to
2 enlarge or shorten time so that the Motion for Summary Judgment will not be considered
3 untimely.

4 Nevertheless, having read and considered counsel’s statement, and noting no opposition
5 from Defendant, the Court hereby **DISCHARGES** the Order to Show Cause. The Court expects
6 that counsel has taken all necessary steps to ensure that this will not recur. Any future
7 modifications to the Social Security Procedural Order, or any other case deadlines, shall be
8 requested in compliance with the Local Rules. Any further failure to comply with the Local Rules
9 or with Court orders will result in sanctions.

10 **IT IS SO ORDERED.**

11 Dated: December 20, 2023

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LISA J. CISNEROS
United States Magistrate Judge